

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION  
THIRUVANANTHAPURAM**

**First Appeal No. A/162/2017  
( Date of Filing : 02 Mar 2017 )  
(Arisen out of Order Dated in Case No. CC/147/2016 of District Wayanad)**

1. G.M. ANNA ALUMINIUM

.. .....Appellant(s)

Versus

1. SUNIL KUMAR

.. .....Respondent(s)

**BEFORE:**

**HON'BLE MR. JUSTICE SRI.K.SURENDRA MOHAN PRESIDENT  
HON'BLE MR. SRI.AJITH KUMAR.D JUDICIAL MEMBER  
SRI.RADHAKRISHNAN.K.R MEMBER**

**PRESENT:**

**Dated : 17 Aug 2023**

**Final Order / Judgement**  
**KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION,**  
**VAZHUTHACAUD, THIRUVANANTHAPURAM**

**APPEAL No. 162/2017**

**JUDGMENT DATED: 17.08.2023**

*(Against the Order in C.C. 147/2016 of CDRF, Wayanad)*

**PRESENT:**

**SRI. AJITH KUMAR D. : JUDICIAL MEMBER**

**SMT. BEENA KUMARY. A : MEMBER**

**SRI. RADHAKRISHNAN K.R. : MEMBER**

**APPELLANT:**

Managing Director, Anna Aluminium Company (Spices Division), Kizhakkambalam Post,  
Aluva, Ernakulam-683 562.

(By Advs. Nemom V. Sanjeev & Narayan R.)

Vs.

**RESPONDENTS:**

1. Sunilkumar K.D., S/o Divakaran, Karakkatt House, Chettapalam Post, Pulpally Village, Sulthan Bathery Taluk, Wayanad.

(By Adv. R.T. Anoop)

2. P.S. Vinod, Proprietor, Panakkal Store, Kaapiset, Chettapalam Post, Pulpally-673 579, Wayanad.

**JUDGMENT**

**SRI. AJITH KUMAR D. : JUDICIAL MEMBER**

This is an appeal filed by the 1<sup>st</sup> opposite party in C.C. No. 147/2016 before the District Consumer Disputes Redressal Commission, Wayanad (will be referred as District Commission for brevity) against the order dated 08.02.2017. The District Commission had directed the 1<sup>st</sup> opposite party to pay Rs. 10,000/- as compensation and Rs. 5,000/- as costs for the unfair trade practice in manufacturing packed chili powder for the purpose of sale with actual weight falling less than the weight displayed on the packet.

2. The case in the complaint in brief is that on 30.01.2016 the complainant had purchased 250 grams of "Saras" Chili powder manufactured by the first opposite party from the shop of the second opposite party for a sum of Rs. 52/-. The packet displayed the weight of the contents as 250 grams. The complainant suspected the weight shown in the packet and when the packet was weighed it was found out that the chili powder was less in weight for 250 grams which fact was brought to the notice of the second opposite party. The act of the opposite party in selling a commodity with a lesser weight than that displayed on the label is a calculated act to deceive the consumers. The complainant was attracted by the advertisements made by the appellant in the news papers regarding the product, but in experience it was found that the manufacturer was doing an act of deception on the consumer. Hence he would seek for compensation of Rs. 2 Lakhs.

3. The first opposite party filed version with following contentions:-

The trade carried out in manufacturing various curry powders is conceded. The packing is done through mechanical process. If any mistake occurs in the weight of the product it can only happen due to some unexpected technical problems with the machines which was not intentional. There are no other instances of this sort. This is stray incident within the 40 years of the opposite party as a manufacturer. Though the officials of the opposite party offered to refund the price he was adamant and demanded a huge amount of Rs. 2 Lakhs as compensation. There is no deficiency of service and the case is liable to be dismissed.

4. The second opposite party had filed a version by admitting the purchase of the curry powder by the complainant. According to him the packet was sold in the same manner as was purchased and there was no unfair trade practice on his part as he had sold the packet as received.

5. The evidence consists of the testimony of PW1, Ext. A1, A2, C1 and MO1 were marked for the complainant. The opposite party had examined RW1 and marked Ext. B1 also.

6. In the appeal memorandum the following contentions are raised:

There is no customer relationship between the complainant and the appellant. The District Commission ought to have found that the intention of the complainant is unjust enrichment which is evident in raising a huge claim as compensation. The compensation ordered does not commensurate with the loss suffered to the complainant.

7. When the matter was taken for hearing the first respondent remained absent. His lawyer also remained absent despite sufficient chances being given. So we are constrained to hear the appellant and take up the matter for judgment after perusal of the records received from the District Commission.

8. The fact that the complainant had purchased 250 grams of packed chili powder from the shop of the second opposite party stands established. The packed chili powder was brought before the District Commission which was forwarded to the Assistant Controller of Legal Metrology Department, Wayanad for verification. The report issued by the expert which was marked as Ext. C1 would prove that the weight of the chili powder in the packet was 165.2 Grams alone. The details of the label declaration have been reiterated in Ext. C1. So it is further established that there is a deficit in weight for 84.8 grams which is substantial when compared to the contents displayed. When a customer purchased 250 grams of chili powder he lost a weight of 88.8 grams. The appellant has no explanation in this regard except certain lame excuses such as fault of the machines used. Appellant claimed 40 years of meritorious experience in manufacture of curry powder. This aspect is the grievance of the complainant because the product was chosen by him based on the goodwill of the manufacturer. The matter cannot be viewed lightly. Whenever a consumer purchases a packed curry powder bearing label declaration, normally he might not be suspecting the genuineness in the label regarding the weight of its contents. It is also rather difficult for the consumer to check the weight of the product as an advanced balance is needed for the weighing of products with less weight. On consideration of the disappointment, financial loss and inconvenience caused to the customer and the explanation offered by the appellant it cannot be said that the compensation awarded is excessive. No hard and fast yardstick could be adopted in

fixing the quantum of compensation. The District Commission had imposed adequate compensation considering the grievance of the consumer and we find no reason to set aside or modify the order passed by the District Commission. The appeal fails.

In the result, the appeal is dismissed. Appellant shall pay Rs. 3,000/- as costs to the first respondent/complainant.

The first respondent/Complainant is allowed to receive the statutory deposit made by the appellant amounting to Rs. 7,500/- on proper acknowledgement.

**AJITH KUMAR D. : JUDICIAL MEMBER**

**BEENA KUMARY. A : MEMBER**

**RADHAKRISHNAN K.R. : MEMBER**

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**[HON'BLE MR. JUSTICE SRI.K.SURENDRA MOHAN]  
PRESIDENT**

**[HON'BLE MR. SRI.AJITH KUMAR.D]  
JUDICIAL MEMBER**

**[ SRI.RADHAKRISHNAN.K.R]  
MEMBER**